

530
MHP**PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

Name Daniels Isiah
(Last) (First) (Initial)

Prisoner Number K-37959

Institutional Address 14 V-2L CSP Solano, P.O. Box 4000
Vacaville, Ca. 95696-4000

FILED
AUG 12 2008
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

Isiah Daniels
(Enter the full name of plaintiff in this action.)

vs.

D.K. Sisto (warden)

(Enter the full name of respondent(s) or jailor in this action)

Case No. SC 152249 A
(To be provided by the clerk of court)

**PETITION FOR A WRIT
OF HABEAS CORPUS**

E-filing

(PR)

Read Comments Carefully Before Filing In

When and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

008-3852 MHP

1 Who to Name as Respondent

2 You must name the person in whose actual custody you are. This usually means the Warden or
3 jailor. Do not name the State of California, a city, a county or the superior court of the county in which
4 you are imprisoned or by whom you were convicted and sentenced. These are not proper
5 respondents.

6 If you are not presently in custody pursuant to the state judgment against which you seek relief
7 but may be subject to such custody in the future (e.g., detainees), you must name the person in whose
8 custody you are now and the Attorney General of the state in which the judgment you seek to attack
9 was entered.

10 A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

11 1. What sentence are you challenging in this petition?

12 (a) Name and location of court that imposed sentence (for example; Alameda
13 County Superior Court, Oakland):

14 Marin County Superior Court Marin County
15 Court Location

16 (b) Case number, if known SC152249A

17 (c) Date and terms of sentence 01/24/97— 6 years /consecutive life term

18 (d) Are you now in custody serving this term? (Custody means being in jail, on
19 parole or probation, etc.) Yes x No

20 Where?

21 Name of Institution: CSP Solano

22 Address: P.O Box 4000, Vacaville, Ca 95696-4000

23 2. For what crime were you given this sentence? (If your petition challenges a sentence for
24 more than one crime, list each crime separately using Penal Code numbers if known. If you are
25 challenging more than one sentence, you should file a different petition for each sentence.)

26 Kidnap/Robbery PC 209, Assault w/intent PC220

3. Did you have any of the following?

Arraignment: Yes X No

Preliminary Hearing: Yes X No

Motion to Suppress: Yes No X

4. How did you plead?

Guilty Not Guilty Nolo Contendere

Any other plea (specify) Plea Agreement

5. If you went to trial, what kind of trial did you have? N/A

Jury Judge alone Judge alone on a transcript

6. Did you testify at your trial? N/A Yes No

7. Did you have an attorney at the following proceedings:

(a) Arraignment Yes X No

(b) Preliminary hearing Yes X No

(c) Time of plea Yes X No

(d) Trial Yes N/A No

(e) Sentencing Yes X No

(f) Appeal Yes N/A No

(g) Other post-conviction proceeding Yes N/A No

8. Did you appeal your conviction? Yes No X

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes No X

Year: Result: N/A

Supreme Court of California Yes No

Year: Result: N/A

Any other court Yes No

Year: Result: N/A

(b) If you appealed, were the grounds the same as those that you are raising in this

petition? N/A Yes _____ No _____

(c) Was there an opinion? N/A Yes _____ No _____

(d) Did you seek permission to file a late appeal under Rule 31(a)? N/A

Yes _____ No x _____

If you did, give the name of the court and the result:

N/A

9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal? Yes X No _____

[Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. §§ 2244(b).]

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: Marin County Superior Court, Marin County

Type of Proceeding: Habeas Petition

Grounds raised (Be brief but specific):

Petitioners received a sentence in a plea agreement that has been a. ruled unconstitutional by the U.S. Supreme Court

Petitioners plea agreement imposes a sentence beyond what is b. allowed by law, and fails to resolve the reasonable doubt standard.

Petitioners due process was violated when the BPTH failed to meet c. "Some Evidence" standards and denied petitioner his right to Parole.

The BPTH denied petitioner of a liberty interest to parole by d. refusing to adhere to the criteria set forth 3041 (b), 2402 (a) (c)

Result: DENIED Date of Result 08/08/07

II. Name of Court: California Court of Appeals, First Appellate District

Type of Proceeding: Habeas Petition

Grounds raised (Be brief but specific):

a. _____

Same as above

b. _____

c. _____

d. _____

Result: Denied Date of Result: 11/01/07

III. Name of Court: California Supreme Court

Type of Proceeding: Habeas Petitioner

Grounds raised (Be brief but specific):

a. _____

b. Same as above

c. _____

d. _____

Result: Denied Date of Result: 06/08

IV. Name of Court: _____

Type of Proceeding: _____

Grounds raised (Be brief but specific):

a. _____

b. _____

c. _____

d. _____

Result: _____ Date of Result: _____

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

Yes X No _____

Name and location of court: U.S. Court of Appeal For the Ninth Circuit
95 7th st. San Francisco Ca. 94103

B. GROUNDS FOR RELIEF

State briefly every reason that you believe you are being confined unlawfully. Give facts to support each claim. For example, what legal right or privilege were you denied? What happened?

Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Petitioners sentence has been ruled unconstitutional by the U.S Supreme
6 Claim One:

7 Court, violating his 6th , 14th amendments of the U.S Constitution.

8 Supporting Facts: As stated in the Cunningham lineage. The sentencing judge sentencing
9 petitioner to the upper term of the sentencing triad. Denies petitioner due process.

10 Aggravating circumstances must be submitted to a jury to resolve reasonable doubt
11 standard. Otherwise imposing a sentence beyond what is allowed by Law.

12 Claim Two: Petitioners plea agreement incorporates a sentence that is unauthorized by
13 law creating a liberty interest. Petitioner is being held illegally beyond time
14 restraints.

15 Supporting Facts: Petitioner has made a favorable plea agreement that has later been
16 ruled unauthorized by law. People V. Baries 209 Cal. App. 3d. 313,319. Petitioner is

17 ^{beyond} being held years what is allowed by law. All citizens have due process rights subject
18 to " fairness of Law".

19 Claim Three: The Board relying soley on the commitment offense fails to meet "Some
20 Evidence" standards, denying petitioner due process and his right to parole.

21 Supporting Facts: The Boards reliance on factors that cannot change violate a Liberty
22 interest to due process. The Board continues to ignore the requirements of 3041 (b)
23 2402 (a) (c) the guide line for finding an inmate suitable or unsuitable for parole
24 alongside if the inmate would be a danger to the community. This blatant refusal by the
25 Board violates due process in parole proceedings.

26 If any of these grounds was not previously presented to any other court, state briefly which
27 grounds were not presented and why:

28 N/A

1 List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases:

4 Cunningham V. California (2007) 127 S. ct. 856, Greenholtz V. Inmates of Nebraska Penal and
5 Penal Complex, 442 U.S. 1, 99 S. ct. 2100, 60 L.Ed 2d 668 (1979), Superintendent V. Hill, 472
6 U.S. 445, 105 S. Ct. 2768, 86 L. Ed. 2d 356 (1985), Dannenberg, 104 P. 3d at 885, Lee, 143 Cal.
App. 4th. at 1408, Cal. Code Reg. Tit. 15 3041 (a), 2402 (a) (c) Sass 461 F. 3d 1127-28,
Tyler V. Cain (2001) 533 U.S. 656, 665.

7 Do you have an attorney for this petition? Yes _____ No x

8 If you do, give the name and address of your attorney:

9 N/A

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12
13 Executed on

08/12/08

14 Date



15 Signature of Petitioner

16
17
18
19
20 (Rev. 6/02)



SACRAMENTO CA 957

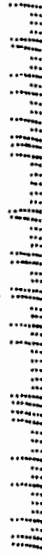
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 Northern District of California
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CALIFORNIA DISTRICT COURT

94102+3483 0004



CALIFORNIA STATE PRISON-SOLANO

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read